IN THE UNITED STATES BANKRUPTCY COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

IN RE: : CHAPTER 13

HAROLD EUGENE CLARK, SR :

aka Harold Eugene Clark : CASE NO. 1:17-bk-02060

JACKQYLN DALE CLARK, :

Debtors

:

HAROLD EUGENE CLARK, SR : aka Harold Eugene Clark :

JACKQYLN DALE CLARK,

Movants : OBJECTION TO CLAIM # 5

v. :

Pinnacle Credit Services, LLC its successors and assigns as assignee of Cellco Partnership d/b/a Verizon, Respondent/Claimant

OBJECTION TO PROOF OF CLAIM #5

COME NOW the Debtors, by and through attorney Dorothy L. Mott, Esquire and make this Objection to Creditor's claim filed in the above–captioned bankruptcy proceeding, stating in support there of as follows:

- 1. The Debtors filed a Chapter 13 bankruptcy proceeding on 5/18/2017.
- 2. The Respondent, PINNACLE CREDIT SERVICES, filed an unsecured claim on or about August 22, 2017 in the amount of \$1,380.58.
- 3. Federal Rule of Bankruptcy Procedure 3001(c) requires that 'when a claim, or an interest in property of the debtor securing the claim, is based on a writing, the original or a duplicate shall be filed with the proof of claim. If the writing has been lost or damaged, a statement of the circumstances of the loss or destruction shall be filed with the claim.'
- 4. The creditor's claim is based on a writing, and the documents, if any, attached to the proof of claim do not include the original or a copy of such writing, or a statement of the circumstances of the loss or destruction, if any, of the writing.

- 5. Rule 3001(c)(2)(A) requires an itemized statement showing all applicable interest, fees, expenses, and/or charges be filed with the proof of claim.
- 6. Without the required documentation attached to the claim, Debtor's counsel cannot ascertain the claim amount is correct; and which state's statue of limitations applies.
- 7. If the applicable statute of limitations is Pennsylvania, then the Claimant's claim is beyond the statute of limitations for collection.
- 8. The Debtor believes that the claim is beyond the statute of limitations for collection and may be overstated, but without further documentation cannot determine the validity of the claim. The attachment to the proof of claim indicates that the last transaction on the account was made on November 13, 2010 and the obligation was charged off on April 13, 2011.
- 9. Although the Claimant indicates that its claim is for principal only, Debtor believes that the amount includes interest, fees or other charges, which would require the Claimant to comply with Rule 3001(c)(2)(A) and provide a breakdown of the additional fees and charges.
- 10. The claim should be disallowed because the claim is beyond the statute of limitation for collections.

WHEREFORE, the Debtor hereby requests that this Honorable Court enter an order

- 1. Disallowing and dismissing the claim; and
- 2. Precluding the Claimant from presenting the omitted information as evidence in any contested matter or adversary proceeding pursuant to Rule 3001(c)(2)(D)(i); and
- 3. Granting such other relief as this Court deems just.

Respectfully submitted,

/s/ Dorothy L. Mott

Dorothy L. Mott, Esquire 125 State Street Harrisburg, PA 17101 717.232.6650 Tel 717.232.0477 Fax doriemott@aol.com

LOCAL BANKRUPTCY FORM 3007-1 IN THE UNITED STATES BANKRUPTCY COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

IN RE: : CHAPTER 13

HAROLD EUGENE CLARK, SR

aka Harold Eugene Clark : CASE NO. 1:17-bk-02060

JACKQYLN DALE CLARK, :

Debtors

:

HAROLD EUGENE CLARK, SR : OBJECTION TO CLAIM # 5

aka Harold Eugene Clark :

JACKQYLN DALE CLARK,
Movants

:

Pinnacle Credit Services, LLC its successors and assigns as assignee of Cellco Partnership d/b/a Verizon,

Respondent/Claimant

TO:PINNACLE CREDIT SERVICES ("Claimant")

NOTICE OF OBJECTION TO CLAIM AND HEARING DATE Harold Eugene Clark, Srand Jackqyln Dale Clark have filed an objection to the proof of claim you filed in this bankruptcy case. Your claim may be reduced, modified, or eliminated. You should read these papers carefully and discuss them with your attorney, if you have one. If you do not want the court to eliminate or change your claim, you or your lawyer must attend the hearing on the objection, scheduled to be held:

United States Bankruptcy Court	Date: October 11, 2017
Ronald Reagan Federal Building,	
Bankruptcy Courtroom (3rd Floor),	Time: 9:40 A.M.
Third & Walnut Streets	
PO Box 908	
Harrisburg, PA 17108	

If you or your attorney do not attend the hearing on the objection, the court may decide that you do not oppose the objection to your claim. Attorney for Objector

/s/ Dorothy L. Mott Dorothy L. Mott Law Office, LLC 125 State Street, Harrisburg PA 17101 717. 232.6650 Tel 717.232.0476 Fax doriemott@aol.com Attorney ID No. 43568

Date of Notice: August 24, 2017

IN THE UNITED STATES BANKRUPTCY COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

IN RE: : CHAPTER 13

HAROLD EUGENE CLARK, SR

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v. :

Pinnacle Credit Services, LLC its successors and assigns as assignee of Cellco Partnership d/b/a Verizon, Respondent/Claimant

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on <u>August 24, 2017</u>, I served a copy of the foregoing document(s) electronically or by placing the same in the United States Mail, First Class, postage pre-paid, addressed as follows on the following parties:

Name and Address	Mode of Service
CHARLES J DEHART, III ESQUIRE	Electronically
8125 ADAMS DRIVE SUITE A	
HUMMELSTOWN PA 17036	
<u>dehartstaff@pamd13trustee.com</u>	
PINNACLE CREDIT SERVICES	First Class Mail, Postage Prepaid
C/O RESURGENT CAPITAL SERVICES	
PO BOX 10587	
GREENVILLE, SC 29603-0587	

I certify under penalty of perjury that the foregoing is true and correct.

/s/Dorothy L Mott

Dorothy L Mott, Esquire

Atty ID #43568

Dorothy L. Mott Law Office, LLC

125 State Street Harrisburg, PA 17101 (717) 232–6650 TEL

(717) 232-0477 FAX doriemott@aol.com

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IN RE: : CHAPTER 13

HAROLD EUGENE CLARK, SR

aka Harold Eugene Clark : CASE NO. 1:17-bk-02060

JACKQYLN DALE CLARK,

Debtors

:

HAROLD EUGENE CLARK, SR : aka Harold Eugene Clark :

JACKQYLN DALE CLARK,

Movants : OBJECTION TO CLAIM # 6

v. :

Pinnacle Credit Services, LLC its
successors and assigns as assignee of
Cellco Partnership d/b/a Verizon,
Respondent/Claimant:

ORDER

UPON CONSIDERATION of the Objection to Proof of Claim filed by the Debtors, it is hereby

ORDERED that the claim of the Respondent is disallowed and dismissed; it is further

ORDERED that the Claimant is precluded from presenting the omitted information as evidence in any contested matter or adversary proceeding pursuant to Rule 3001(c)(2)(D)(i)